

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

LOWEY DANNENBERG COHEN,
PC, in its capacity as account holder of, and party
with interest in, the REZULIN SETTLEMENT
FUND,

Plaintiff,

- vs -

JAMES R. DUGAN, II, STEPHEN B.
MURRAY d/b/a THE MURRAY LAW FIRM,
RAWLINGS AND ASSOCIATES, PLLC,
GREG MURPHY, MORAIN & MURPHY, LLC,
WALLACE JORDAN RATLIFF & BRANDT,
LLC, ELWOOD S. SIMON & ASSOCIATES,
P.C., KERSHAW, CUTTER & RATINOFF,
LLP, BERMAN DEVALERIO PEASE
TABACCO BURT & PUCILLO, MARK
FISCHER, GEORGE RAWLINGS,

Defendants.

Case No. 08 CIV 0461 (KMK)

HONORABLE Kenneth M. Karas

ECF CASE

**NOTICE OF MOTION TO AUTHORIZE PLAINTIFF TO
DEPOSIT FUNDS WITH THE CLERK OF THE COURT**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. 1335, Rule 67 of the Federal Rules of Civil Procedure and Rule 67.1(a) of the Local Rules of this Court, and upon Plaintiff's Complaint filed January 17, 2008, the Declaration of Richard W. Cohen dated January 17, 2008, the Memorandum of Law In Support of Plaintiff's Order To Show Cause For a Temporary Restraining Order, and Preliminary and Permanent Injunctive Relief dated January 17, 2008, and Plaintiff's Memorandum of Law in Support of Its Motion to Authorize Plaintiff to Deposit Funds

with the Clerk of the Court, Plaintiff will move before the Honorable Kenneth M. Karas, Courtroom 521, United States Courthouse, 300 Quarropas Street, White Plains, NY 10601-4150 on such date and time as the Court may direct, for an Order in the form submitted herewith authorizing Plaintiff to deposit with the Clerk of the Court, into an interest-bearing account, all funds currently held in Citibank Account No. 009977643705, titled "Lowey Dannenberg Bemporad & Selinger P.C. as Attorneys for the Rezulin Settlement Fund," (\$4,555,657.02 as of January 17, 2008 with interest continuing to accrue), which account is referred to by the Complaint as the "Rezulin Settlement Fund."

Dated: January 22, 2008
White Plains, New York

LOWEY DANNENBERG COHEN, P.C.

/S/
Stephen Lowey , Esq. (SL-7677)
Richard W. Cohen, Esq. (RC-5220)
Peter St. Phillip, Esq. (PS-0726)
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CERTIFICATE OF SERVICE

I, Todd S. Garber, hereby certify under penalty of perjury that I caused copies of Plaintiff's Notice of Motion to Authorize Plaintiff to Deposit Funds with the Clerk of the Court and Plaintiff's Memorandum of Law in Support of its Motion to Authorize Plaintiff to Deposit Funds with the Clerk of the Court to be served upon the parties listed below via email, on this 22nd day of January 2008.

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_____/S/_____
Todd S. Garber

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

LOWEY DANNENBERG COHEN,
PC, in its capacity as account holder of, and party
with interest in, the REZULIN SETTLEMENT
FUND,

Plaintiff,

vs

JAMES R. DUGAN, II, STEPHEN B. MURRAY
d/b/a THE MURRAY LAW FIRM, RAWLINGS
AND ASSOCIATES, PLLC, GREG MURPHY,
MORAIN & MURPHY, LLC, WALLACE
JORDAN RATLIFF & BRANDT, LLC,
ELWOOD S. SIMON & ASSOCIATES, P.C.,
KERSHAW, CUTTER & RATINOFF, LLP,
BERMAN DEVALERIO PEASE TABACCO
BURT & PUCILLO, MARK FISCHER,
GEORGE RAWLINGS,

Defendants.

Case No. 08 CIV 0461 (KMK)

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**[PROPOSED] ORDER AUTHORIZING PLAINTIFF TO DEPOSIT
FUNDS WITH THE CLERK OF THE COURT**

Plaintiff, Lowey Dannenberg Cohen, P.C. (formerly known as Lowey Dannenberg Bemporad Selinger & Cohen, P.C.) ("Lowey Dannenberg"), in its role as account holder of, and party with interest in, Citibank Account No. 009977643705, titled "Lowey Dannenberg Bemporad Selinger & Cohen, P.C. as Attorneys for the Rezulin Settlement Fund" ("Rezulin Settlement Fund"), seeks leave to deposit the Rezulin Settlement Fund with the Clerk of the Court, in an interest bearing account, pursuant to 28 U.S.C. § 1335, Rule 67 of the Federal Rules of Civil Procedure and Rule 67.1(a) of the Local Rules of this Court.

CAME ON TO BE HEARD Plaintiff Lowey Dannenberg Cohen's motion for leave to deposit the Rezulin Settlement Fund with the Clerk of the Court, and the Court, after considering the papers submitted in connection with said motion, and being of the opinion that said motion is well taken and should be granted, it is therefore,

ORDERED ADJUDGED AND DECREED:

1. Plaintiff is authorized to deposit into the registry of the Clerk of the Court, the entirety of the Rezulin Settlement Fund (\$4,555,657.02 as of January 17, 2008 with interest continuing to accrue).
2. The Clerk of the Court is directed to deposit the Rezulin Settlement Fund into an interest bearing account (the "Account").
3. Pursuant to Local Civil Rule 67.1, the clerk is authorized to deduct from the income received in the Account a fee equal to ten per cent (10%) of the income earned, but not exceeding the fee authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.
4. Pursuant to 28 U.S.C. § 2042, no withdrawals shall be made from the Account without further order of this Court.

Dated: New York, New York
January ____, 2008

UNITED STATES DISTRICT JUDGE